



Periodic Review and Retention of Existing Regulations Agency Background Document

Agency Name:	Virginia Department of Transportation (Commonwealth Transportation Board)
VAC Chapter Number:	24 VAC 30-310-10 et seq.
Regulation Title:	Virginia Supplement to the MUTCD
Action Title:	Review and Retain
Date:	January 23, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

This regulation promulgates state standards for traffic control devices that exceed minimum federal requirements and presents pertinent traffic control device design, installation, and operation details not covered in the federal *Manual on Uniform Traffic Control Devices (MUTCD)*, which was adopted by the Commonwealth Transportation Board (CTB) as the state standard for traffic signs, signals, markers, and control devices (24 VAC 30-561-10 et seq.). Part VI of the regulation is published as a separate document under the title *Virginia Work Area Protection Manual*, but the Office of the Attorney General has affirmed its status as part of the entire *Virginia Supplement to the MUTCD* by correspondence dated April 29, 1996.

The entire regulation includes the following: depictions of traffic signs and their shapes, colors, sizes, and types of messages; depictions of traffic signals (including beacons and draw bridge

signals), their colors, and details on their placement; details on sign placement and mounting materials; charts concerning letter spacing and dimensions; figures showing typical marking layouts; and typical details for road edge delineators.

The Office of the Attorney General has determined that this regulation is exempt from the APA under the exemption granted by § 9-6.14:4.1B11 (traffic signs, markers, or control devices.)

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

The basis for this regulation is as follows:

State statute: §§ 33.1-12 and 46.2-830. The CTB has general authority under the former statute to make regulations concerning the use of the system of state highways. The CTB has authority under the former statute to classify, designate, and mark state highways and provide a uniform system of marking and signing these highways under its jurisdiction. This statute also directs that the system of marking and signing shall correlate with and conform to the system adopted in other states.

Federal statute: VDOT is obligated by federal law to follow minimum standards of the *MUTCD* by Title 23, USC §§ 109(b), 109(d), and 402 (a), or it may develop its own standards. The Federal Highway Administration has approved the *MUTCD* as the national standard for all highways open to public travel. By resolution, the CTB adopted the *MUTCD* as the standard for all highways under the jurisdiction of the Virginia Department of Transportation on March 15, 1979, and reaffirmed this step on February 18, 1988, and November 16, 1989, when the federal *MUTCD* was revised. The *Virginia Supplement to the MUTCD* was adopted via CTB resolution dated November 20, 1980.

The Virginia Supplement to the *MUTCD* presents standards or guidelines that may exceed the minimum requirements of the federal *MUTCD* by addressing unique circumstances and situations in which non-standard signage (items not addressed in the *MUTCD*) is needed. Examples include Part VI of the regulation dealing with activities taking place within the highway right of way. *The Work Area Protection Manual* is intended to promote a uniform standard of traffic control associated with special events, incident management, and work area protection along Virginia's highways.

The manual establishes standards for uniformity and guidelines to permit flexibility within the range of good engineering judgement. For example, VDOT's regulation establishes a standard height for traffic cones of 36 inches, but also provides guidelines to permit the individual contractor or engineer to decide how many to use, depending on the terrain, traffic volumes, etc. As another example, federal regulations permit state DOTs the option to use flashing arrow

panels. A sparsely populated state like Montana may not elect to use this device, but VDOT does, based on the specific characteristics of the highway, such as traffic density.

Other parts of the *Virginia Supplement to the MUTCD* present information on specialized signs, signals and devices (such as drawbridge signals, hazard beacons, school signs, regulatory signs, destination signs, guide signs, etc.); and sample agreements on installation and maintenance of fire warning signals or fire preemption equipment.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

VDOT received no public comment during the Notice of Periodic Review, so no response was prepared. No advisory group was formed to assist in the periodic review.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

This regulation's goals are:

1. To ensure traffic signs, signals, and control markers and devices are designed and installed in compliance with accepted state and agency requirements to preserve motorist safety and preserve the infrastructure of the road system.
2. To minimize the number and severity of work zone accidents and fatalities.
3. To protect the public's health, safety, and welfare with the least possible cost and intrusiveness to the citizens of the Commonwealth.

As to effectiveness of the regulations, the Traffic Engineering Division relies on the input of those contractors, designers, and others using the *Work Area Protection Manual* to determine when policies, standards, or guidelines need revising. In addition, technological advancements such as new materials or new inventions may be incorporated into the *Work Area Protection Manual* as appropriate. The Traffic Engineering Division anticipates a new *MUTCD* to be

issued during 2001. Any revisions to the entire *Virginia Supplement to the MUTCD* will be influenced by the changes to the federal *MUTCD*.

Frequency and severity of work zone accidents is another variable that will help VDOT determine the effectiveness of the regulation. VDOT works to alert the public as well as contractors and designers of potential risk through a formal observance of Work Zone Safety Awareness Week each year. In 1999, Virginia experienced 645 work zone accidents. These accidents caused 318 injuries and seven fatalities.

There is no effect on the family or family stability, other than the obvious benefits from increased safety for the traveling public.

Aside from the legal obligation to follow the *MUTCD*, VDOT believes that the establishment of uniform traffic control standards embodied in the *Virginia Supplement to the MUTCD* to preserve motorist safety, minimize injury or death to those working within the highway right of way, and prevent damage to the road infrastructure are essential to public safety and welfare.

The regulation includes drawings of signs, lettering charts, and other features to communicate its content. In addition, the *Work Area Protection Manual* contains multi-colored plan views of typical traffic marker layouts that are annotated to the text to make the content easily understandable and clear to users. Furthermore, VDOT believes that the lack of public comment received in response to the Public Notice indicates general satisfaction with the regulation as written.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

There is no viable alternative to achieve the purpose of this regulation in another form. VDOT is obligated by federal law to follow the *MUTCD* or develop its own standards concerning signs, signals, and traffic control devices. Furthermore, state statute directs that the system of marking and signing will correlate and conform, as reasonably as possible, with the system used in other states.

A regulation is an appropriate means to promote uniform standards, especially when it includes provisions for regulatory signs that have the force of law. Furthermore, without a regulation in place, VDOT could face legal action and liability for damages from those who sustain property damage or bodily injury or death in traffic accidents.

Therefore, VDOT considers this regulation to be the least burdensome alternative available for achieving the purpose of the regulation.

Recommendation

Please state that the agency is recommending that the regulation should stay in effect without change.

VDOT recommends that this regulation be retained without change.

Family Impact Statement

Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.

With the exception of benefits to safety, this regulation has no discernable effect on the institution of the family and family stability, nor does it affect the other factors listed above.